

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 RICHARD ROBERT MELNYK,

2 Plaintiff,

3 No. C 09-0725 PJH (PR)

4 v.

5 ORDER OF TRANSFER

6 CALIFORNIA DIRECTOR OF  
7 CORRECTION; CALIFORNIA DNA  
8 DATA BANK; VICTIMS'  
9 COMPENSATION GOVERNMENT  
10 CLAIMS BOARD, et al.,11 Defendants.  
12 /13 This is a civil rights case brought pro se by a state prisoner. Plaintiff was convicted  
14 in the California Superior Court for Orange County of burglary, receiving stolen property,  
15 and vehicle theft. See *People v. Melnyk*, 2006 WL 1725611 at \*1 (Cal. App. 2006). The  
16 conviction was reversed by the California Court of Appeal and remanded with instructions  
17 to the trial court to grant plaintiff's motion to suppress. *Id.* at \*1. He does not say whether  
18 he was retried. When he filed the complaint he was in a prison in Pennsylvania, and  
19 currently has an address at "Pyramid Health Care" in Altoona, Pennsylvania.20 Plaintiff complains that his DNA was not deleted from the state DNA database when  
21 his conviction was reversed, and that his claim (presumably a state tort claim, perhaps  
22 based on the failure to delete his DNA information) was denied by defendant Government  
23 Claims Board. The state agency defendants cannot be sued in federal court. See  
24 *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 237-38 (1985) (11th Amendment bars  
25 from the federal courts suits against a state by its own citizens, citizens of another state or  
26 citizens or subjects of any foreign state). The claims against them will be dismissed.

1       The only remaining claim is against the Director of the California Department of  
2 Corrections and Rehabilitation, who is to be found in the venue of the United States District  
3 Court for the Eastern District of California. Venue, therefore, properly lies in that district  
4 and not in this one. See 28 U.S.C. § 1391(b).

5       This case is **TRANSFERRED** to the United States District Court for the Eastern  
6 District of California. See 28 U.S.C. § 1406(a). In view of the transfer, the court will not  
7 rule upon plaintiff's motions.

8       **IT IS SO ORDERED.**

9       Dated: October 19, 2009.

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PHYLLIS J. HAMILTON  
United States District Judge